

## **Part 2**

### **Transportation Infrastructure Loan Fund**

#### **72-2-201 Definitions.**

As used in this part:

- (1) "Fund" means the Transportation Infrastructure Loan Fund created under Section 72-2-202.
- (2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects, including:
  - (a) capital reserves and other security for bond or debt instrument financing; or
  - (b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.
- (3) "Infrastructure loan" means a loan of fund money to finance a transportation project.
- (4) "Public entity" means a state agency, county, municipality, local district, special service district, or an intergovernmental entity organized under state law.
- (5) "Transportation project":
  - (a) means a project to improve a state or local highway; and
  - (b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing.

Amended by Chapter 396, 2008 General Session

#### **72-2-202 Transportation Infrastructure Loan Fund -- Creation -- Use of money.**

- (1) There is created a revolving loan fund entitled the Transportation Infrastructure Loan Fund.
- (2) The fund consists of money generated from the following revenue sources:
  - (a) appropriations made to the fund by the Legislature;
  - (b) federal money and grants that are deposited in the fund;
  - (c) money transferred to the fund by the commission from other money available to the department;
  - (d) state grants that are deposited in the fund;
  - (e) contributions or grants from any other private or public sources for deposit into the fund; and
  - (f) all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.
- (3)
  - (a) The fund shall earn interest.
  - (b) All interest earned on fund money shall be deposited into the fund.
- (4) Money in the fund shall be used by the department, as prioritized by the commission, only to:
  - (a) provide infrastructure loans or infrastructure assistance; and
  - (b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects, and obtaining repayments of infrastructure loans or infrastructure assistance.
- (5)
  - (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

- (6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Amended by Chapter 382, 2008 General Session

**72-2-203 Loans and assistance -- Authority -- Rulemaking.**

- (1) Money in the fund may be used by the department, as prioritized by the commission, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance.

Amended by Chapter 382, 2008 General Session

**72-2-204 Loan program procedures -- Repayment.**

- (1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source to the repayment of the loan.
- (2) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:
  - (a) transportation project revenues, including special assessment revenues;
  - (b) general funds of the public entity;
  - (c) money withheld under Subsection (5); or
  - (d) any other legally available revenues.
- (3) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.
- (4) Before obtaining an infrastructure loan, a county or municipality shall:
  - (a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and
  - (b) adopt an ordinance or resolution authorizing the infrastructure loan.
- (5)
  - (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.
  - (b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.
  - (c) The department may elect when to request the withholding of money under this Subsection (5).
- (6) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

Amended by Chapter 382, 2008 General Session

**72-2-205 Loan contracts of state agencies.**

- (1)

- (a) Notwithstanding Sections 53B-21-113 and 63A-1-112, a state agency may obtain an infrastructure loan.
  - (b) A state agency may contract to repay an infrastructure loan from the money which is appropriated to the agency and may pledge all or any portion of the money to repay the loan.
  - (c) A state agency's infrastructure loan may not constitute a debt of the state or lending the credit of the state within the meaning of any constitutional or statutory limitation.
- (2) The terms of an infrastructure loan contract shall bind the state and a state agency, and the state agency shall unconditionally repay the loan from the money the agency has pledged under the terms of the loan contract.

Amended by Chapter 342, 2011 General Session

**72-2-206 Department authority to contract.**

The department may, upon approval of the commission:

- (1) make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects in accordance with this chapter; and
- (2) enter into and perform the contracts and agreements with entities concerning the planning, construction, lease, or other acquisition, installation, or financing of transportation projects.

Renumbered and Amended by Chapter 270, 1998 General Session